IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 402 OF 2007.

Bhimrao Deorao Ghogare and others. ... Appellants.

Versus.

Sau.Draupadabai Bhimrao Ghogare ... Respondent.

Shri Sachin U.Dhakephalkar for the Appellants.

CORAM : ABHAY S.OKA, J.

DATED : 6th June, 2007.

P.C.:

1. Heard the learned Advocate appearing for the Appellants. The Respondent is the original Plaintiff and the Appellants are the original Defendants. The suit filed by the Respondent for declaration and injunction has been dismissed by the trial Court. In Appeal preferred by the Respondent/Plaintiff, a temporary injunction has been granted by the Appellate Court restraining the Appellants from disturbing the peaceful possession of the Respondent over the suit property.

2. The effect of the impugned order is that during the pendency of the appeal, the possession of the Respondent has been protected. The case of the Respondent is that she was put in possession of the suit property in lieu of maintenance. The Appellant No.3 claims to be a bonafide purchaser of the property.

3. Considering the possession receipt at Exh.62, the Appellate Court has passed an equitable order. The order of temporary injunction is always discretionary. In the present case the order is passed on the basis of the documents on record of the suit. There is no perversity in the impugned order.

4. The Appeal is accordingly dismissed. The Appellate Court will decide the pending Appeal as expeditiously as possible and preferably on or before 31st December 2007. All contentions of the parties in the Appeal are expressly kept open.

Judge.